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August 2, 2002

HAND DELIVERED

Chairman Karen Getman
Commissioner Sheridan Downey, III
Commissioner Gordana Swanson
Commissioner Thomas S. Knox
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

**Re: Meeting of August 9, 2002
Agenda Item # 4
Proposed Emergency Regulation 18535
(Restrictions on Contributions between State Candidates-Section 85305)**

Chairman Getman and Commissioners:

I am writing on behalf of Ms. Jan Wasson, a professional campaign treasurer, and in my own right as one who has a longstanding interest in the Political Reform Act of 1974, as amended ("Act").

The Fair Political Practices Commission and its staff are to be commended for addressing the parameters of Proposition 34's Section 85305¹ expeditiously and definitively by means of an emergency regulation. However, the regulation proposed by staff is inconsistent with the express language of the Act, ignores legislative history with respect to Proposition 34, and needlessly creates serious constitutional issues. For these reasons, the draft regulation should be rejected, or at least significantly amended. I have submitted, in the alternative, a proposed regulation that is consistent with the Act and avoids the problems created by the staff-proposed regulation. Please see Attachment "H."

I would like to respond briefly to each point addressed in the staff memo.

¹ All "section" references are to the Government Code unless otherwise indicated.

1. Is the dollar amount of the limit on contributions between state candidates \$3,000 across-the-board, or is it \$3,000, \$5,000 and \$20,000 depending on the office?

Staff concludes that the limit is \$3,000 across the board (aside from Section 83 considerations) based on: 1) the language of Section 85301(a) which is incorporated by reference; 2) a contrary interpretation would make Section 85305 superfluous; 3) the incorporation of 85301(a) by reference takes advantage of cost-of-living adjustments provided for by Section 83124. Staff is incorrect based on the following:

A. STAFF IGNORES THE PLAIN LANGUAGE OF SECTION 85301(a)

Section 85305 incorporates by reference the **limits** of Section 85301(a), providing that "...the **limits** set forth in subdivision (a) of Section 85301" [emphasis added] restrict the amount that a candidate for elective state office or committee controlled by that candidate can contribute to other candidates for elective state office. However, Section 85301(a) specifically **excludes** from its reach candidates for statewide elective office, providing, in applicable part:

"(a) A person...may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office may not accept from a person, any contribution totaling more than three thousand dollars (\$3,000) per election."

Thus, by its express terms, Section 85301(a) does not impose **any** limits on contributions to candidates for statewide elective office. The \$3,000 limit set forth in Section 85301(a) does not apply at all to a candidate for statewide elective office. Of course, statewide elective candidates are subject to the limits set forth in Section 85301(b) and (c), i.e., the \$5,000 and \$20,000 limits (aside from the Section 83 considerations), but they are not subject to the limit set forth in Section 85301(a) that applies to legislative candidates.

Significantly, Section 85305 uses the words "**limits**" rather than "**limit**" in referencing Section 85301(a), indicating that a single limit does not apply to contributions by state candidates to other state candidates. Section 85305, thus, points by reference to Section 85301(a) which, by specifically excluding candidates for statewide elective office, points in turn to subdivisions (b) and (c) of Section 85301, dealing with candidates for statewide elective office. This statutory construction is consistent with the legislative intent set forth below.

B. STAFF IGNORES THE CLEAR LEGISLATIVE HISTORY REGARDING PROPOSITION 34

To the extent that there is any ambiguity when reading Sections 85305 and 85301(a) together, it is resolved by examining compelling evidence of legislative intent.

Senate Floor Analysis: The obvious intent of Proposition 34 with respect to state candidate contributions to statewide candidates (beginning November 6, 2002) was succinctly set forth in the “Analysis of the Conference Committee Report” for SB 1223, dated July 5, 2000, by the Office of Senate Floor Analyses. In Paragraph II., titled “Contribution Limits,” the analysis provides, in applicable part: “This bill would subject candidate-to-candidate transfers to the contribution limits outlined above. (85305)” [emphasis added] **“The contribution limits outlined above” were \$3,000 for legislative candidates, \$5,000 for BOE & statewide candidates, and \$20,000 with respect to Governor.** Please see Attachment “A,” pp. 4-5, as marked.

Assembly Floor Analysis: The Assembly Floor Analysis, explaining the Conference Report dated June 29, 2000, described Proposition 34’s transfer of funds provision (Section 85305) between candidates this way: “a) To a legislative candidate from another legislative candidate: up to \$3,000;” Please see Attachment “B,” Page 3, as marked. There was no mention whatsoever of any other transfer limitations between state candidates. Had such restrictions been intended, it is virtually certain that they would have been mentioned.

The legislative intent is unmistakable with respect to “candidate-to-candidate” contributions. The \$5,000 and \$20,000 contribution limits, not the \$3,000, were intended to apply with respect to state candidate contributions to candidates for statewide elective office.

Ballot Pamphlet: In accord with the above interpretation is the Analysis of the Legislative Analyst that was published in the *California Official Voter Information Guide*. In her analysis, the Legislative Analyst indicates that the measure repeals a provision of Proposition 208 that “...bans transfers of funds from any state or local candidate or officeholder to another candidate, but establishes **limits** on such transfers from state candidates.” [emphasis added] Significantly, the Legislative Analyst uses the word “**limits**” rather than “**a limit**,” indicating that there is not a uniform \$3,000 limit but rather a variety of “limits” based on the type of recipient candidate. Please see Attachment “C,” Page 14, as marked.

It is also significant that the Legislative Analyst, in her analysis, does not single out a particular limit on contributions from a state candidate to a state candidate. Instead, she summarizes the campaign contribution limits contained in Proposition 34 with the statement: “This measure establishes limits on contributions to candidates for state elective office. The limits vary according to the state office sought by the candidate and the source of the contribution, as shown in Figure 1.” “Figure 1” sets forth the \$3,000, \$5,000 and \$20,000 limits with no reference to a uniform limit of \$3,000 on contributions from state candidates. Please see Attachment “B,” Page 13, as marked. Had Section 85305 been imagined to impose a \$3,000 a limit with respect to state candidate contributions to statewide elective candidates, it is highly likely that such a significant limitation would have been specifically referenced.

Opposition Campaign: The primary opponent of Proposition 34, Californians Against Phony “Reform”-NO on 34, sponsored by League of Women Voters of California, AARP and California Common Cause, agreed with the Senate Floor Analysis and Legislative Analyst in this regard and so advised the voters repeatedly. For example, in its information handout comparing the provisions of Proposition 208 and Proposition 34, with specific reference to Proposition 34’s Section 85305, the

opponents wrote: “Repeals Prop 208 limits. Permits transfers up to contribution limit.” Neither the opponents nor the voters had an inkling that Section 85305 could be read as you propose to read it. Please see Attachment “D,” Page 2, as marked.

The fact is, there is nothing in the legislative history that supports the staff interpretation of Section 85305. The record is quite clearly to the contrary, as evidenced specifically in Attachments “A” and “B,” referred to above.

C. STAFF IGNORES THE APPLICATION OF “COST OF LIVING ADJUSTMENTS” TO ALL SECTION 85305 CONTRIBUTION LIMITS

In arguing for its interpretation, staff asserts that, by incorporating Section 85301(a) rather than a monetary limit of \$3,000, Section 85305 “...takes advantage of the cost-of-living adjustment applied to the contribution limits every other year as specified in Section 83124.” (Section 83124 requires the adjustment of all of the contribution limits set forth in Section 85301, including the limits on contributions to statewide candidates.) Had the drafters of Section 85305 intended that the \$3,000 limit apply with respect to **all** candidates, they could easily have included that limitation specifically in Section 85305 and provided for cost of living adjustments of that limit in Section 83124. They did not do so because, as indicated above, that is not what they intended.

D. STAFF IGNORES THE CONSTITUTIONAL ISSUES CREATED BY ITS INTERPRETATION

Equal Protection/First Amendment: Section 85305 targets not only **state candidate controlled committees** but also **state candidates themselves**. This is of no consequence if the \$3,000 limit is read to apply only to contributions made by state candidates to legislative candidates since the \$3,000 per election limit set forth in Section 85301(a) applies regardless of the status of the individual contributing. However, if Section 85305 is read as staff proposes, then **state candidates** are not permitted to contribute **personally** to candidates for statewide office to the same extent that non-candidates can. Aside from Section 83 considerations, the State Treasurer cannot write a **personal check** to a candidate for Governor for more than \$3,000 per election, although non-candidates can contribute up to \$20,000 per election to gubernatorial candidates. This raises very serious Equal Protection and First Amendment issues. It is very doubtful that the disparity in treatment between candidates and non-candidates in this regard, and the unique restriction on state candidates, can be justified in the context of Equal Protection/First Amendment analyses. These problems are avoided, of course, if the approach I am suggesting is taken.

Proponents sold Proposition 34, in part, on the notion that the “reforms” would not be thrown out by the courts. Please see Attachment “C,” Pages 16 and 17, Argument in Favor of Proposition 34 and Rebuttal to Argument Against Proposition 34. The interpretation of staff with respect to Section 85305 invites the very lawsuits and declarations of “unconstitutionality” that supporters of Proposition 34 sought to avoid. On this basis alone, if for no other reason, the staff interpretation should be rejected.

E. SECTION 85305, PROPERLY CONSTRUED, IS NOT SUPERFLUOUS

Staff maintains that Section 85305 would be “read out of the Act” if construed as submitted herein. I respectfully disagree.

Staff notes on Page 1 of its memo that “Section 85305 of Proposition 34 was intended to limit the movement of campaign funds between state candidates. Legislative leaders in the Senate and the Assembly typically raise funds to support candidates.” Staff goes on to argue, at the bottom of Page 6, that: “In essence, section 85305 is designed to reduce the power of legislative leaders to influence election outcomes by transferring money to candidates in tight races.” [emphasis added] Historically, legislative leaders have raised money for the purpose of making substantial transfers to members in order to strengthen their leadership positions. Indeed, as is discussed by staff in its memo on Page 2, virtually every so-called “reform” measure has attempted to limit inter-candidate transfers.

Given this backdrop, the obvious purpose of Section 85305 was to highlight this limitation on legislator-to-legislator transfers by including a specific provision addressing such transfers. Having a separate section specifically dealing with such transfers, as referenced in the Assembly analysis of Proposition 34 (see Attachment “B”) not only underlines the restriction but has enforcement ramifications in terms of charging for violations of the Act and determining mitigating factors. Including the section, also, had a political purpose, i.e., garnering support for the proposal. Certain “reform” advocates have argued that such a restriction on inter-candidate transfers is the most important, if not the only, “reform” needed.

For these reasons, the undersigned submits that candidate-to-candidate contributions are limited by Proposition 34 (without regard to Section 83 considerations) to \$3,000, \$5,000 and \$20,000, depending on the recipient of the contribution and the emergency regulation should be drafted accordingly. Please see Attachment “H.”

2. To which committees do the restrictions on contributions between state candidates apply?

Staff concludes that contributions by state candidates and their controlled committees must be aggregated as set forth in the *Dichiara* Advice Letter, No. I-02-040. Staff is correct with respect to the aggregation requirement.

3. When does section 85305 take effect for statewide candidates?

Staff concludes, pursuant to Section 83² of Proposition 34, as amended by Stats. 2001, Ch. 241, that Section 85305 applies currently to contributions made by legislative candidates to statewide candidates but that Section 85305 doesn’t apply to statewide candidates making contributions to other candidates for elective state office until November 6, 2002. Thus, notwithstanding Section 83,

² “Section,” in the context of “Section 83,” refers to the uncodified Section 83 of Proposition 34 and not to the Government Code.

according to your staff, a state legislative candidate cannot personally, or through his or her controlled committee, make a contribution to a statewide elective candidate in excess of \$3,000 with respect to a 2002 statewide election (although nothing apparently prohibits a statewide candidate from accepting such a contribution.)

Based on the plain language of Section 83 and the legislative history of Proposition 34, it is respectfully submitted that the staff interpretation is erroneous.

A. STAFF IGNORES THE PLAIN LANGUAGE OF SECTION 83

Section 83, as reaffirmed by Stats. 2001, Ch. 241, provides:

This act shall become operative on January 1, 2001. However, Article 3 (commencing with Section 85300), except subdivisions (a) and (c) of Section 85309, Section 85319, Article 4 (commencing with Section 85400), and Article 6 (commencing with Section 85600), of Chapter 5 of Title 9 of the Government Code shall apply to candidates for statewide elective office beginning on and after November 6, 2002. [emphasis added]

“Shall apply to” is not ambiguous. Except as indicated in the section, Article 3 (including Sections 85301 and 85305) doesn’t “apply to” candidates for statewide office until after the November 5, 2002, General Election. They can receive contributions (and persons can make contributions to them) without regard to any limits that may otherwise be imposed by these sections, until November 6, 2002.

B. STAFF IGNORES THE LEGISLATIVE HISTORY OF PROPOSITION 34

The record fully supports the conclusion that **none** of the Article 3 contribution limits (including those included by reference in Section 85305) applies to statewide candidates in 2002.

Senate Floor Analysis: The “Analysis of the Conference Committee Report” for SB 1223 (which became Proposition 34), by the Office of Senate Floor Analysis, provided in Paragraph VII that the “...provisions of this bill **relating to campaign contributions** and expenditures shall apply to candidates for statewide elective office beginning on and after November 6, 2002. [emphasis added] Please see Attachment “A,” Page 12, as marked.

Assembly Floor Analysis: “Comments” in the Assembly Floor Analysis to SB 1223 provided that the bill, if approved by the voters, will impose contribution limits and that it “...will apply to candidates for statewide office, including Governor, on and after November 6, 2002. Please see Attachment “B,” Page 7, as marked.

Ballot Pamphlet: The **Title and Summary prepared by the Attorney General** and included in the California Official Voter Information Guide by the Secretary of State provided, in part:

“Effective 1/1/01, except statewide elective office effective 11/6/02.”

Please see Attachment “C,” Page 12.

The **Analysis by the Legislative Analyst** and included in the *California Official Voter Information Guide* by the Secretary of State provided, in part: “Campaigns for statewide elective office, such as Governor, would generally **not be affected** by the provisions of the measure until after the November 2002 election.” The use of the word “affected” is compelling evidence of an expansive reading of Section 85305 and Section 83. Please see Attachment “C,” Page 13, as marked. Clearly, statewide candidates could be significantly “affected” with respect to the 2002 elections should a \$3,000 limit on contributions by committees controlled by legislative candidates be operative. [emphasis added]

Opposition Campaign: The League of Women Voters of California pointed out in its own analysis of Proposition 34 that the measure “...would not even go into effect for statewide offices, including Governor and Insurance Commissioner, until after the 2002 election.” Please see Attachment “E,” Page 4, as marked.

The primary opponent of Proposition 34, Californians Against Phony “Reform”-NO on 34, sponsored by League of Women Voters of California, AARP and California Common Cause, argued that the measure was full of loopholes, identifying as the number one loophole: “NO LIMITS ON CONTRIBUTIONS TO STATEWIDE CANDIDATES SUCH AS GOVERNOR AND INSURANCE COMMISSIONER UNTIL AFTER THE 2002 ELECTION!” Please see Attachment “F,” as marked. In its “Frequently Asked Questions” piece, the committee said that “...under Proposition 34, candidates for Governor and Insurance Commissioner will have no restrictions on fundraising or spending until the 2006 election cycle.” Please see Attachment “G,” Page 2, as marked. Clearly the repetitive message to the voters was unambiguous: **no restrictions** on fundraising by statewide candidates until after the November 2002 General Election. At no point was it imagined by opponents that there would be **any** limitations on what committees controlled by legislative candidates could give to statewide candidates until after the November 2002 General Election.

It is clear from the foregoing that legislators, the Governor and the voters believed that none of the contribution limits contained in Proposition 34 applied to statewide candidates with respect to the 2002 elections. The Fair Political Practices Commission is bound not only by the express language of the measure but by the obvious legislative (voter) intent.

4. May a legislative candidate and his or her controlled committee (pre- or post-Proposition 34) make a contribution to a statewide candidate in excess of \$3,000 now?

Staff concludes that a legislative candidate, and his or her controlled committees, whether the committees are pre- or post-Proposition 34, are banned from making a contribution today to a statewide (or other state candidate) in excess of \$3,000. I respectfully disagree.

For the reasons set forth above, the limits of Section 85301 and Section 85305 do not apply currently to legislative candidate contributions to statewide candidates. However, there is another reason why the contribution limit of \$3,000 doesn't apply with respect to contributions made from pre-Proposition 34 committees to state candidates. That reason is Regulation 18531.6(a).

A. STAFF IGNORES REGULATION 18531.6(a)

With respect to contributions **made to** state candidates by legislative candidates and their controlled committees, Regulation 18531.6(a) also controls.³ The regulation provides, without ambiguity:

(a) Pre-2001 Elections. Government Code section 85316 does not apply to a candidate for elective state office in an election held prior to January 1, 2001.

- (1) "There are no contribution limits in effect for elections held prior to January 1, 2001 for contributions made on or after January 1, 2001.**
- (2) Contributions for an election held prior to January 1, 2001, may be accepted in an amount that exceeds net debts outstanding."**

[Cal. Code of Regs., tit. 2, § 18531.6(a)(1) and (2)]

Regulation 18531.6 clarifies that Proposition 34 applies only to elections held after January 1, 2001 (or on or after November 6, 2002, with respect to statewide candidates, as defined). Under this regulation, Section 85305 simply does not apply with respect to contributions to pre-Proposition 34 committees. **"No contribution limits,"** as used in the regulation, means exactly what it says. State candidate controlled committees, whether legislative or statewide, can contribute, without limits, to pre-Proposition 34 committees. (Of course, should such legislative recipient committees wish to use the contributions for a 2002 or subsequent election, the transfer and attribution rules of Section 85306 and Regulation 18536 would apply, as staff has correctly indicated.)

The same rationale that led to the adoption of Regulation 18531.6 applies to interpreting Section 85305. Proposition 34 speaks prospectively from January 1, 2001. It was not intended to apply to contributions received by pre-2001 committees from other state candidates except to the extent that activity implicated a post January 1, 2001, election. Section 85305 should be interpreted accordingly. Once the transition from no-regulation to regulation occurs and the pre-Proposition 34 committees are terminated as required by Commission action, any perceived problems will disappear.

³ Regulation 18531.6(e) limits the operation of the regulation with respect to candidates for statewide office. However, it is clearly applicable to legislative candidates and their controlled committees in terms of what they can contribute and receive.

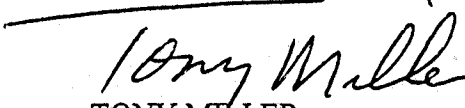
I should also point out that, given Regulation 18531.6, it is illogical to conclude that the maker, but not the recipient, of contributions is subject to the purported limits of Section 85305 with respect to contributions made to pre-Proposition 34 committees. Staff reaches this result by applying Section 85305 but ignoring Regulation 18531.6 with respect to makers of contributions. Since Section 85305 only reaches contributors, recipients are left untouched. Mutuality of responsibility makes much more sense than imposing liability only on the contributor. This result can be reached by applying Regulation 18531.6 to both contributors and recipients as, I believe, the regulation was intended to apply.

In conclusion, staff supports its interpretation of Section 85305 and other provisions of the Act by stating (on page 7) that "...there is no persuasive policy argument to exempt from Section 85305 the current activity of a state candidate in contributing to another state candidate, even if the contribution is made from or to an old committee." With all due respect to staff, the "policy argument" I make is that the Fair Political Practices Commission is bound by the plain language of Proposition 34, the well-documented legislative intent behind it and the Commission's own regulation. There is also a compelling rationale to interpret provisions of Proposition 34 so that they will be found to be constitutional. The staff regulation deviates from this fundamental principle.

I spent a great deal of time campaigning against Proposition 34 because it repealed most provisions of a much tougher law, Proposition 208. But the People spoke and we all have to respect their judgment call. The proposed regulation goes well beyond what the law says and what the People voted for in 2000.

I respectfully urge that the Commission consider and adopt the Alternative Regulation attached hereto. Please see Attachment "H."

Respectfully submitted,


TONY MILLER

Attachments

- A Senate Floor Analysis
- B Assembly Floor Analysis
- C *California Official Voter Information Guide* Excerpt
- D No on 34 Comparison Chart
- E League of Women Voters of California Analysis of Proposition 34
- F No on 34 Information Sheet
- G No on 34 Frequently Asked Questions
- H Alternative Regulation 18535

cc: Luisa Menchaca, General Counsel
Hyla P. Wagner, Senior Counsel

ATTACHMENT "A"

BILL ANALYSIS

SENATE RULES COMMITTEE	SB 1223
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 445-6614 Fax: (916)	
327-4478	

CONFERENCE COMPLETED

Bill No: SB 1223
 Author: Burton (D)
 Amended: Proposed Conference Report No. 1, 6/29/00
 Vote: 21

ALL PRIOR VOTES NOT RELEVANT

CONFERENCE COMMITTEE VOTE : 5-1, 6/29/00

AYES: Burton, Murray, Johnson, Hertzberg, Shelley

NOES: Ackerman

SUBJECT : Campaign contributions

SOURCE : Author

DIGEST : Conference Committee Amendments delete the prior version of the bill stating legislative intent to require a specified notice to be printed on any slate mailer that recommends a support or oppose position that is different from that of the political party the slate mailer appears to represent.

This bill enacts provisions to the Political Reform Act providing for campaign contribution limits and voluntary expenditure limits; requiring certain disclosures in slate mailers, in paid political advertisements, and in certain issue advocacy communications; authorizing intra-candidate transfers of campaign funds and restrict inter-candidate contributions; requiring the aggregation of certain contributions made by affiliated entities; expanding online or electronic filing requirements with respect to the

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receipt of certain contributions and the making of certain independent expenditures; and prescribing the authorized use of surplus campaign funds. These new provisions, as to candidates for statewide elective office, would become operative on or after November 6, 2002. This bill makes certain technical conforming changes.

It also calls for a special statewide General Election scheduled to be consolidated with the November 7, 2000 regular General Election. Submits to the voters prior provisions of this bill amending the Political Reform Act of 1974.

ANALYSIS : The following is an analysis done by the Senate Elections and Reapportionment Committee staff regarding the specifics of SB 1223.

SB 1223 (BURTON)
ANALYSIS OF THE CONFERENCE COMMITTEE REPORT
As Adopted 6/29/00

BACKGROUND DISCUSSION :

Propositions 68 and 73

In 1988 voters approved two separate campaign finance reform initiatives, Proposition 68 and Proposition 73. The California State Supreme Court eventually ruled in Taxpayers to Limit Campaign Spending v. FPCC that because the two measures contained conflicting comprehensive regulatory schemes they could not be merged and only one could be implemented. Since Proposition 73 received more affirmative votes than Proposition 68, the Court ordered the implementation of Proposition 73 and proclaimed all the provisions of Proposition 68 invalid. In 1990, all state and local elections were conducted under the Proposition 73 limits.

Proposition 73 prohibited the use of public moneys for campaign purposes and limited the amount of contributions candidates, committees, and political parties could accept from all persons on a fiscal year basis (\$1,000, \$2500, or \$5,000, depending on the source). It also prohibited the transfer of campaign funds between candidates. These same

provisions also applied to special elections but were based on election cycles rather than fiscal years.

Many of the provisions of Proposition 73 however, were ultimately found unconstitutional by the federal courts. The fiscal-year based contribution limits were deemed to discriminate against challengers. The federal case ended in 1993 when the United States Supreme Court denied certiorari in Service Employees International Union v. FPCC. The proponents of Proposition 73 then petitioned the California State Supreme Court to rewrite the unconstitutional portions of the measure so that it may again become enforceable. The Court narrowly rejected that request even though they previously alluded such a rewriting would be possible.

The only provisions of Proposition 73 that survived legal challenge were the contribution limits for special elections, some restrictions on the type of mass mailings officeholders may send out at public expense, and the prohibition on the use of public money for campaign purposes.

Proposition 208

Another initiative, Proposition 208 was approved by the voters in 1996. This measure enacted a campaign finance reform plan consisting of variable contribution limits, i.e., candidates who agree to abide by a voluntary expenditure cap would receive contribution limits higher than the limits imposed on candidates who refuse the expenditure cap. Transfers of campaign funds between different candidates and their committees were prohibited. Additionally, candidates for statewide office were prohibited from accepting contributions more than 12 months prior to the primary election while all other candidates were prohibited from accepting contributions more than six months prior to the primary election.

Proposition 208 was also challenged in federal court subsequent to passage. It was enjoined from enforcement by Federal District Court Judge Lawrence Karlton on January 6, 1998. Judge Karlton concluded that the contributions limits were so low that they precluded an opportunity to

conduct a meaningful campaign and thereby infringed on a candidate's First Amendment rights (legislative candidates could not accept contributions in excess of \$250, or \$500 if they accepted the expenditure cap). The court also found fault with the notion of variable contribution limits.

The Fair Political Practices Commission (FPPC) appealed the decision with the 9th U.S. Circuit Court of Appeals. Originally Judge Karlton had ordered the FPPC to seek a ruling from the California Supreme Court on issues of severability (whether any sections of Prop. 208 could stand on it's own given his ruling) and reformation (the possibility that the Court could rewrite Proposition 208 to make it constitutional). However, Judge Karlton agreed to allow the defendants to postpone going to the California Supreme Court until the 9th Circuit ruled. Upon appeal, the 9th Circuit ordered Judge Karlton to revisit the constitutional challenges to Proposition 208 and to make a final ruling thereon. Judge Karlton has ordered the Proposition 208 trial to reconvene on July 11, 2000.

Current Guidelines

As a result of all the aforementioned court actions, existing state law imposes campaign contribution limits and a ban on candidate-to-candidate transfers for special elections only. Some local jurisdictions however, continue to impose their own contribution limits for regular elections. The prohibition on the use of public moneys for campaign purposes is also intact.

SENATE BILL 1223 (BURTON)

I. OVERVIEW

SB 1223 would place a campaign finance reform measure on the November 7, 2000 ballot that would impose limits on contributions to candidates and committees for the purpose of seeking, supporting, or opposing candidacies for elective state office. This measure would also: institute voluntary limits on campaign expenditures for candidates seeking elective state office; impose specified disclosure

requirements, specified penalties and enforcement

SB 1223

Page

5

procedures; and regulate the use of surplus campaign funds.

This bill would not repeal Proposition 208 in its entirety - it does however repeal provisions of Proposition 208 which were deemed unconstitutional. The specifics of this bill are discussed as follows.

II. CONTRIBUTION LIMITS

This bill would enact the following contribution limits:

<u>To</u>	<u>From</u>	<u>Amount</u>	<u>Per</u>
Legislative candidates	person	\$3,000	election
Legislative contributor			small
Candidates	committee	\$6,000	election
BOE & statewide candidates	person	\$5,000	election
BOE & statewide contributor			small
candidates	committee	\$10,000	election
Governor candidates	person	\$20,000	election
Governor contributor	small contributor		
candidates	committee	\$20,000	election
Any state candidate	committee		political party no limit
Committee	person	\$5,000	*calendar

year

Political party person
\$25,000*calendar
committee year

*For the purpose of making contributions to candidates for state office. There is no limit on the amount a person may contribute to a political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office. (85301, 85302, 85303)

"Small contributor committee" means a committee that has been in existence for at least six months, receives contributions no larger than \$200 from any one person per calendar year, receives contributions from one hundred or more persons, and makes contributions to five or more candidates. (85203)

"Election" means any regular or special primary or general election. Contributions attributed toward a particular election may be accepted after the date of the election only to the extent that the contributions do not exceed net debts outstanding from that election and they do otherwise exceed the applicable limit. Contributions for a general election may be raised prior to the primary election provided they are not expended prior to the primary election. If a candidate is defeated at the primary or withdraws prior to the general election, then the contributions raised for the general election must be returned to the contributors on a pro rata basis less any administrative expenses, as defined.

Transfers & Candidate Controlled Independent Expenditures

This bill would subject candidate-to-candidate transfers to the contribution limits outlined above. (85305)

This bill permits transfers of funds between a candidate's own controlled committees provided that the contributions are attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method. No such attributed contribution may exceed the applicable contribution limit. However, funds raised in connection

with one election may be carried over without restriction

SB 1223

Page

7

for use in a subsequent election for the same office.
(85306)

This bill would prohibit a candidate controlled committee from making an independent expenditure or making a contribution to another committee for the purpose of making an independent expenditure.

This bill would permit candidates to transfer funds to political party committees for voter registration, get-out-the-vote activities, and slate mailers.
(85303/89519)

Existing Funds

This bill would provide that campaign funds held on the effective date of this measure may be used for future political purposes without restriction. (85306)

Personal Funds

The contribution limits do not apply to a candidate's contributions of his or her personal funds to his or her own campaign. (85301)

Legal Services Exemption

Contributions made for the purpose of defraying the costs of specified legal services would be exempt from the contribution limits. (85304)

Loans

This bill would provide that no candidate for state elective office may personally loan his or her campaign more than \$100,000 and no candidate may charge his or her campaign interest on any such loan. (85307)

Aggregate Contributions from Affiliated Entities

This bill would provide that the contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by

that individual and any other entity whose contributions

SB 1223

Page

8

are directed and controlled by that same individual.

If two or more entities make contributions which are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

Contributions made by entities which are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless such entities act independently in their decisions to make contributions. (85311)

Member Communications

This bill would provide that payments for non-public communications to members, employees, shareholders, or the families thereof, of an organization are not contributions or independent expenditures. (85312)

Family Contributions

Contributions made by a husband and wife would not be aggregated and contributions from a child under 18 would be attributed to the parent or guardian. (85308)

Lobbyist Contributions

This bill would prohibit acceptance of contributions from lobbyists who are registered to lobby the agency to which the candidate is seeking office. (85703)

Earmarking Contributions

This bill would prohibit the "earmarking" of contributions made to committees unless the intermediary and original contributor are disclosed. (85704)

Appointee Contributions

This bill would repeal the prohibition on accepting contributions from specified governmental appointees. (85705)

III. VOLUNTARY EXPENDITURE LIMITS

This bill would provide for the following voluntary limits on campaign expenditures:

<u>Office</u> <u>Election</u>	<u>Per Primary Election</u>	<u>Per General</u>
Assembly	\$400,000	\$700,000
Senate	\$600,000	\$900,000
BOE	\$1 million	\$1.5 million
Statewide Office (except Governor)	\$4 million	\$6 million
Governor	\$6 million	\$10 million

These limits apply equally to regular or special elections.
(85400)

Acceptance/Compliance

This bill would require candidates for state elective office to file a statement of acceptance or rejection of the expenditure limits at the time they file their statement of intention to be a candidate (current FPPC form #501). Any candidate who does not accept the limits at that time may do so for the general election after the primary election if he or she does not exceed the limits in the primary election. (85401)

Candidates accepting the expenditure limits would be designated as having done so in the ballot pamphlet and will be permitted to pay for a 250 word candidate statement to appear in the sample ballot. (85600)

Candidates accepting the limits would not be bound by them if their opponent contributes personal funds to their own campaign in excess of the applicable expenditure limit.
(85402)

Any candidate who files a statement of acceptance of the expenditure limits and then exceeds them would be subject

10

to the penalty provisions of the Political Reform Act.
(85403)

IV. SURPLUS FUNDS

This bill would provide that upon leaving office or at the end of the reporting period following an election defeat, surplus campaign funds may only be used for the following purposes:

- A.Repayment of outstanding campaign debts or elected officer's expenses.
- B.The repayment of contributions.
- C.Donations to specified non-profit organizations.
- D.Contributions to political parties provided that the money is not used to support or oppose candidates, as specified. The money may however, be used for voter registration, get-out-the-vote activities, and slate mailers.
- E.Contributions to support or oppose any candidate for federal office, any candidate in another state, or any ballot measure.
- F.Payments for professional services related to committee administrative functions, as specified.
- G.Payments for candidate or elected officer security, as specified. (89519)

V. DISCLOSURE

Large Contributions

This bill would require candidates and ballot measure committees to file a report online or electronically with the Secretary of State within 24 hours of receipt of any contribution of \$1,000 or more received within 90 days of an election. (85204, 85309)

Independent Expenditures

This bill would provide that any candidate or committee which is currently required to file online, and who makes independent expenditures totaling \$1,000 or more within 90 days prior to an election shall file online or electronically a report with the Secretary of State disclosing the expenditure within 24 hours. (85500)

This bill would require late independent expenditure reports to disclose the reportable contributions received and expenditures made by that committee since it filed its last statement. (84204)

Non-Express Advocacy Communications

This bill would require a report to be filed online or electronically with the Secretary of State within 48 hours of making a payment or promising to make a payment of \$50,000 or more for a communication that is disseminated, broadcast or otherwise published within 45 days of an election that clearly identifies a candidate for elective state office but does not expressly advocate the election or defeat of that candidate.

Any person receiving a payment or promise of a payment totaling \$5,000 or more for such a communication shall disclose the identity of the payer.

Any payments received for the purposes of making such a communication made at the behest of a candidate would be limited to \$25,000 per calendar year. (85310)

Slate Mailers

Existing law requires specified slate mailers to contain various notices and disclaimers informing recipients which candidates and ballot measures paid for their appearance.

This bill would also require that if a slate mailer appears to represent the positions of a specific political party and the slate mailer recommends candidates or ballot measures that the specific political party does not actually endorse, then the following notice must appear in at least 9-point bold type immediately below the

12

recommendation in question:

THIS IS NOT THE OFFICIAL POSITION OF THE _____ PARTY.
(84305.6)

Paid Spokespersons

This bill would require a disclaimer in an advertisement identifying as a paid spokesperson anyone receiving \$5,000 or more for appearance in an advertisement supporting or opposing a ballot measure. (84509)

VI. ENFORCEMENT

A.Existing law provides that the FPPC may impose an administrative fine of up to \$2,000 for a violation of the Political Reform Act. Proposition 208, which is currently enjoined from enforcement, raised that maximum fine to \$5,000.

This bill would also raise that maximum fine to \$5,000.
(83116)

B.This bill would provide that any candidate or committee that receives a "laundered" contribution shall pay to the state general fund the amount of the contribution.
(85701)

C.Existing law provides that any person who violates the Political Reform Act, or who purposely or negligently causes any other person to violate it, or who aids and abets any other person in its violation, shall be liable under existing penalties. This provision only applies to persons who have filing or reporting obligations under the Political Reform Act or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by the Political Reform Act. Proposition 208, which is currently enjoined from enforcement, deleted the aforementioned language applying this provision to only specified persons.

This bill would clarify that the language applying this provision to only specified persons is in effect.

(83116.5, 91004, 91006)

D.Existing law provides that anyone who knowingly or willfully violates any provision of the Political Reform Act is guilty of a misdemeanor. Proposition 208, which is currently enjoined from enforcement, provided that the FPFC has concurrent jurisdiction in enforcing this criminal misdemeanor provision.

This bill would clarify that the Attorney General and local prosecutors have the authority the prosecute misdemeanor violations of the Political Reform Act.. (91000)

VII. MISCELLANEOUS

A.This bill would provide that a candidate or committee shall return within 60 days any contribution of \$100 or more for which the recipient does not have the name, address, occupation, and employer of the contributor. (85700)

B.This bill clarifies that no political party committee shall be considered a controlled committee. (82016)

C.This bill provides that the proposed contribution limits and voluntary expenditure limits shall be adjusted periodically to reflect changes in the Consumer Price Index. (83124)

D.Proposition 208, which is currently enjoined from enforcement, prohibits the Legislature from raising the existing \$100 threshold for reporting individual contributions and expenditures or the threshold prohibiting cash or anonymous contributions of \$100 or more.

This bill would clarify that the Legislature may raise those thresholds. (84201)

VIII. EFFECTIVE DATE

This act shall become operative on January 1, 2001. The act shall apply to candidates for elective state office, other than candidates for statewide elective office, beginning on and after January 1, 2001. The provisions of

14

this bill relating to campaign contributions and expenditures shall apply to candidates for statewide elective office beginning on and after November 6, 2002.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: No

DLW:jk 7/5/00 Senate Floor Analyses

SUPPORT/OPPOSITION: NONE RECEIVED

**** END ****

BILL ANALYSIS

SB 1223

Page 1

PROPOSED CONFERENCE REPORT NO. 1 - June 29, 2000

SB 1223 (Burton)

As Amended July 13, 1999

Majority vote

SENATE:	(August 31, 1999)	ASSEMBLY:	(August 26, 1999)
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(vote not relevant)

(vote not relevant)

SENATE CONFERENCE VOTE : 3-0ASSEMBLY CONFERENCE VOTE : 2-1

Ayes:	Burton, Murray, Johnson	Ayes:	Hertzberg, Shelley
		Nays:	Ackerman

Original Committee Reference: E.R. & C.A.

SUMMARY : Enacts campaign finance reform by amending the Political Reform Act of 1974 (PRA). Limits campaign contributions to candidates for state office, provides for voluntary spending limits, requires additional campaign disclosure, modifies enforcement provisions, changes disposition of surplus funds, repeals conflicting provisions of prior propositions, and calls a special election to be consolidated with the 2000 statewide general election. Specifically, the conference committee amendments :

1) Define, for purposes of campaign contribution limitations:

- a) "Small contributor committee" as a committee that has been in existence at least six months, receives contributions from 100 or more persons to a maximum of \$200 per person per calendar year, and contributes to five or more candidates;

- b) "Political party committee" as the state central committee or county central committee of a political party recognized under the Elections Code, and remove a political party committee from the definition of a controlled committee;
 - c) "Statewide elective office" as including the office of Member of the State Board of Equalization, as well as the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, and Superintendent of Public Instruction; and,
 - d) Apply the existing definition of a "person" under the PRA, which includes an individual, firm, partnership, company, corporation, and other organization or group acting in concert.
- 2) Impose campaign contribution limits, per election, including special elections, except as specified:
- a) To a candidate, other than Governor, by a person: statewide, \$5,000; legislative, \$3,000;
 - b) To a candidate, other than Governor, by a small contributor committee: statewide, \$10,000; legislative, \$6,000;
 - c) To a candidate for Governor, by a person or small contributor committee: \$20,000;
 - d) To a committee by a person, for the purpose of making contributions to candidates for state office: \$5,000 per calendar year;
 - e) To a political party committee, for the purpose of making contributions for the support or defeat of candidates for state office: \$25,000 per calendar year;
 - f) To a political party committee by a person for purposes other than making contributions to candidates for state

office: no limits on contributions;

- g) Personal loans by a candidate for state office to his or her campaign: up to \$100,000. The candidate may not charge interest on any personal loan to his or her campaign;
- h) Personal funds contributed by a candidate to his or her own campaign: no limits on contributions;
- i) To a committee established by a state officer to oppose a recall measure and recall election: no limits on contributions;
- j) To a candidate's or officeholder's legal compliance account for the purpose of defraying legal costs in an administrative, civil, or criminal proceeding arising from an election campaign, the electoral process, or the performance of governmental duties: no limits on contributions;
- aa) To a state officer or candidate for state office from a lobbyist registered to lobby the governmental agency: no contribution allowed;
- bb) A candidate may accept a contribution for a state election after the date of the election only to the extent it does not exceed net debts outstanding from the election and does not otherwise exceed the applicable contribution limit for that election; and,
- cc) Applicable contribution limits shall be adjusted in January of every odd-numbered year to reflect changes in the consumer price index.

3)Specify the following regulations on transfers of funds:

- a) To a legislative candidate from another legislative candidate: up to \$3,000;

- b) To a candidate's own controlled committee from another controlled committee of the same candidate, using a "last in, first out" or "first in, first out" accounting method: aggregate and attribute to a specific contributor up to the applicable contribution limits;
 - c) To a political party committee by a state candidate for purposes other than making contributions to candidates for state office, such as voter registration, get-out-the-vote activities, and slate mailers: no limits on transfers of excess funds;
 - d) To a state officer or candidate for state office from an entity whose contributions are directed and controlled by any individual: all contributions made by that individual and any other entity whose contributions are controlled by that individual are aggregated;
 - e) Communications to members, employees, shareholders, or their families to support or oppose a candidate or ballot measure: payments are not treated as contributions or independent expenditures if the payments are not for general public advertisements; and,
 - f) Independent expenditures by a candidate's controlled committee or transfers to another committee for the purpose of making independent expenditures: none allowed.
- 4) Provide voluntary expenditure limits at a primary or special primary election (P), or at a general or special runoff election (G). A state candidate must file a statement of acceptance or rejection at the time he or she files a statement of intention to run for office:
- a) Assembly: \$400,000 (P); \$700,000 (G);
 - b) Senate: \$600,000 (P); \$900,000 (G);
 - c) Board of Equalization: \$1 million (P); \$1.5 million (G);

- d) Statewide: \$4 million (P); \$6 million (G); and,
 - e) Governor: \$6 million (P); \$10 million (G).
- 5) Provide incentives for acceptance of voluntary expenditure ceilings and penalties for violations, as follows:
- a) A candidate who accepts voluntary expenditure limits will be so designated in the state ballot pamphlet, and may pay for a 250-word statement to be included therein;
 - b) A candidate may file an acceptance for the general election even though he or she declined the voluntary spending limits for the primary election if his or her primary election expenditures did not exceed the voluntary limits;
 - c) A candidate is not bound by the voluntary spending limits if an opponent contributes personal funds to his or her own campaign in excess of the voluntary spending limits;
 - d) Political party campaign expenditures on behalf of a candidate do not count toward the candidate's voluntary spending limits;
 - e) Restriction on the future elective office for which campaign funds held on the effective date of this measure may be used: no restriction;
 - f) Applicable voluntary spending limits shall be adjusted in January of every odd-numbered year to reflect changes in the consumer price index; and,
 - g) A candidate who exceeds the voluntary spending limits after accepting them is subject to administrative fines and other penalties under the PRA.
- 6) Make the following changes, among others, to enforcement

provisions of the PRA:

- a) Provides that the Fair Political Practices Commission may impose administrative fines up to \$5,000 per violation of the PRA;
- b) Requires a candidate or committee that receives a "laundered" contribution to pay it over to the state General Fund;
- c) Reauthorizes administrative penalties on persons who aid and abet a violation of the PRA if they have filing obligations or are compensated for planning, organizing, or directing any activity regulated under the PRA; and,
- d) Clarifies the authority of the public prosecutor to prosecute misdemeanor violations of the PRA.

7)Require additional campaign disclosures, as follows:

- a) A candidate or ballot measure committee shall file within 24 hours an online or electronic report disclosing receipt of a contribution of \$1,000 or more within 90 days of an election;
- b) A person shall file within 48 hours an online or electronic report disclosing payment or promise of payment totaling \$50,000 or more for an ad that clearly identifies a candidate for state office, but does not expressly advocate election or defeat of the candidate, disseminated, broadcast, or otherwise published within 45 days of an election;
- c) A committee shall file within 24 hours a report online or electronically disclosing an independent expenditure of \$1,000 or more within 90 days of an election in connection with a candidate for state office. Also, a committee's independent expenditure report must disclose the reportable contributions received and expenditures made by that committee since it filed its last statement;

- d) An advertisement must disclose a payment of \$5,000 or more to a spokesperson who appears in the ad supporting or opposing qualification, passage, or defeat of a ballot measure; and,
 - e) A slate mailer that recommends a support or oppose position that is different than the official position of the political party the slate mailer appears to represent must contain a specified disclaimer statement.
- 8) Require a candidate, upon leaving office or at the end of the reporting period following the defeat of the candidate, to manage surplus funds as follows:
- a) Report surplus funds on campaign finance reports; and,
 - b) Use the surplus funds only to pay outstanding campaign debts; repay contributions; make donations to bona fide tax-exempt nonprofit organizations; contribute to a political party committee for purposes other than support or opposition of candidates, such as voter registration, get-out-the-vote activities, and slate mailers; contribute to federal candidates or any ballot measure; and pay for professional services required by the committee to assist in the performance of its administrative functions.
- 9) Repeal provisions of prior ballot measures (including provisions of Proposition 73 of 1988 and Proposition 208 of 1996 invalidated by the courts) that conflict with this measure's provisions, and makes other conforming changes to the PRA.
- 10) Require that this measure be submitted to the voters at a special statewide election held on the same date as, and consolidated with, the November 7, 2000, statewide general election.
- 11) Provide this bill takes effect immediately as an act calling an election pursuant to the California Constitution.

AS PASSED BY THE SENATE , this bill made nonsubstantive grammatical changes to a provision of the PRA that prohibits the use of public moneys for campaign purposes.

The Assembly amendments deleted the Senate version of this bill and instead declared legislative intent to require a specified notice to be printed on any slate mailer that recommends a support or oppose position that is different from that of the political party the slate mailer appears to represent.

FISCAL EFFECT : Unknown

COMMENTS : Proposition 208, the campaign finance reform initiative adopted at the November 1996 statewide general election, is currently enjoined from operation by order of the Sacramento federal district court issued January 6, 1998. The federal district court ruled that Proposition 208's contribution limits were too restrictive to permit effective communication with the voters, and thereby violated a candidate's First Amendment political speech rights. Individual contributions to legislative candidates were limited to \$250 per election, or \$500 per election if a candidate accepted the voluntary expenditure limits in Proposition 208.

The federal district court issued an injunction to permit appeal of the ruling. However, the Ninth Circuit Court of Appeals remanded the case to the federal district court with directions to make final determinations on the validity of the myriad provisions of Proposition 208. The trial is scheduled to reconvene in Sacramento on July 11, 2000.

This bill, if approved by the voters at the November 6, 2000, statewide general election, will impose contribution limits and voluntary expenditure ceilings. Individual contributions to legislative candidates will be capped at \$3,000 per election. It will apply to legislative candidates on January 1, 2001, and will apply to candidates for statewide office, including Governor, on and after November 6, 2002.

SB 1223

Page 9

Analysis Prepared by : Romulo I. Lopez / E., R. & C. A. / (916)
319-2094

FN: 0005568

ATTACHMENT "C"

34

CAMPAIGN CONTRIBUTIONS AND SPENDING. LIMITS. DISCLOSURE.

Legislative Initiative Amendment.

Official Title and Summary Prepared by the Attorney General

CAMPAIGN CONTRIBUTIONS AND SPENDING. LIMITS. DISCLOSURE.

Legislative Initiative Amendment.

- Limits individual campaign contributions per election: state legislature, \$3,000; statewide elective office, \$5,000 (small contributor committees may double these limits); governor, \$20,000. Limits contributions to political parties/political committees for purpose of making contributions for support or defeat of candidates.
- Establishes voluntary spending limits, requires ballot pamphlet to list candidates who agree to limit campaign spending.
- Expands public disclosure requirements, increases penalties for violations.
- Prohibits lobbyists' contributions to officials they lobby.
- Limits campaign fund transfers between candidates, regulates use of surplus campaign funds.
- Effective 1/1/01, except statewide elective office effective 11/6/02.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Additional net costs to the state, potentially up to several million dollars annually, to publish candidate statements in the state ballot pamphlet and to implement and enforce provisions of the measure.
- Unknown, but probably not significant, costs to local governments to implement voluntary spending limit provisions of the measure.

Final Votes Cast by the Legislature on SB 1223 (Proposition 34)

Assembly:	Ayes 42	Noes 23
Senate:	Ayes 32	Noes 2

BACKGROUND

Political Reform Laws. The Political Reform Act of 1974, approved by California voters in that year, established campaign finance disclosure requirements. Specifically, it required candidates for state and local offices, proponents and opponents of ballot measures, and other campaign organizations to report contributions received and expenditures made during campaigns. These reports are filed with the Secretary of State's office, local election officials, or both. The Fair Political Practices Commission (FPPC) is the state agency primarily responsible for enforcing the law.

In November 1996, California voters approved Proposition 208, an initiative that amended the Political Reform Act, to establish limits on campaign contributions to candidates, voluntary limits on campaign spending, and rules on when fund-raising can occur. The measure also required identification of certain donors in campaign advertisements for and against ballot measures and contained various other provisions regulating political campaigns.

A lawsuit challenging Proposition 208 resulted in a court order in January 1998 blocking enforcement of its provisions. At the time this analysis was prepared, the lawsuit was still pending. Until the case is resolved, it is unclear which, if any, provisions of Proposition 208 will be implemented. At this time generally no contribution and expenditure limits are in place for campaigns for state elective offices.

Ballot Pamphlet and Sample Ballot. Before each statewide election, a ballot pamphlet prepared by the Secretary of State is mailed to each household with a registered California voter. It contains information on propositions placed on the ballot by the Legislature as well as ballot initiative and referendum measures placed before voters through signature gathering. State law also directs county elections officials to prepare and mail to each voter a sample ballot listing the federal, state, and local candidates and ballot measures.

On-Line Campaign Reporting. State law requires certain candidates and campaign organizations involved in elections for state elective office or ballot propositions to file campaign finance information on-line or in electronic formats with the Secretary of State. Information from those campaign finance reports is then made available for public review through the Internet.

PROPOSAL

This measure revises state laws on political campaigns for state and local elective offices and ballot propositions. Most of these changes would take effect beginning in 2001. Campaigns for statewide elective office, such as Governor, would generally not be affected by the provisions of the measure until after the November 2002 election. This measure does not affect campaigns for federal office, such as the U.S. Congress and generally does not affect the contribution limits now enforced for local offices. The major provisions of this measure include the following:

- Repeals the campaign contribution and voluntary spending limits for state and local elective offices enacted by Proposition 208. Establishes new contribution and voluntary campaign spending limits, with higher dollar amounts than those contained in Proposition 208, for state elective offices.
- Enacts new campaign disclosure requirements, including on-line or electronic reporting in a timely manner of campaign contributions and expenditures of \$1,000 or more.
- Increases penalties for campaign law violations to the same levels as Proposition 208.

These major provisions of the measure are described in more detail below.

Campaign Contribution Limits

This measure establishes limits on contributions to candidates for state elective office. The limits vary according to the state office sought by the candidate and the source of the contribution, as shown in Figure 1. The limits would be adjusted every two years for inflation.

Figure 1

Proposition 34 Campaign Contribution Limits

Contributor	Candidate for:		
	Statewide Office		
	Legislature	Other Than Governor	Governor
Individual	\$3,000	\$5,000	\$20,000
"Small Contributor Committee" ^a	6,000	10,000	20,000
Lobbyist ^b	Prohibited	Prohibited	Prohibited
Political party	No limit	No limit	No limit

^a Defined as a committee in existence for at least six months with 100 or more members, none of whom contribute more than \$200 to the committee in a year, and which contributes to five or more candidates.

^b Prohibition applies to lobbyists only in certain circumstances.

This measure repeals the contribution limits contained in Proposition 208 and replaces them with limits that are generally higher than those contained in Proposition 208. For example, this measure limits contributions from an individual to a candidate for the Legislature to \$3,000 per election and repeals the Proposition 208 limit of \$250 per election for such contributions.

The measure also limits contributions by an individual to a political party for the support or defeat of candidates for elective state office. The contributions would be limited to \$25,000 per calendar year, although additional sums could be given to support other party activities. This measure does not limit the contributions political parties could make to candidates.

The measure also establishes contribution limits both for small contributor committees and for the transfer of funds left over from prior campaigns to the same candidate. In addition, it prohibits contributions from lobbyists to state elective officials or candidates under certain conditions. This measure also repeals a provision

in Proposition 208 limiting contributions to political committees which operate independently of a candidate's campaign committee.

Under this measure, candidates would be allowed to give unlimited amounts of their own money to their campaigns. However, the amount candidates could loan to their campaigns would be limited to \$100,000 and the earning of interest on any such loan would be prohibited.

This measure repeals a provision of Proposition 208 that bans transfers of funds from any state or local candidate or officeholder to another candidate, but establishes limits on such transfers from state candidates. The measure also repeals a provision of Proposition 208 that prohibits candidates for state and local elective office from fund-raising in nonelection years.

Voluntary Spending Limits

Proposition 208 enacted voluntary campaign spending limits for state elective offices. Candidates who accepted those limits would (1) be entitled to obtain larger campaign contributions than otherwise; (2) be identified in the state ballot pamphlet, county sample ballot materials, and on the ballot as having accepted the limits; and (3) receive free space for a statement in support of his or her candidacy in the state ballot pamphlet or in county ballot materials (depending upon the office sought).

This measure repeals those provisions and enacts a new set of voluntary spending limits. Candidates who accepted these limits would (1) be identified in the state ballot pamphlet as having accepted the limits and (2) be eligible to purchase space in the state ballot pamphlet for a statement in support of his or her candidacy.

The major spending limit provisions of this measure are shown in Figure 2. These voluntary limits, which would be adjusted every two years for inflation, are higher than the limits contained in Proposition 208. For example, this measure would repeal a voluntary expenditure limit of \$100,000 for the primary election for an Assembly seat and instead establish a limit of \$400,000 for such an election contest.

Figure 2

Proposition 34
Voluntary Spending Limits

Election Contest	Election	
	Primary	General
Assembly	\$400,000	\$700,000
Senate	600,000	900,000
State Board of Equalization	1 million	1.5 million
Other statewide offices, except Governor	4 million	6 million
Governor	6 million	10 million

Figure 3 shows some of the key changes made by Proposition 34.

Figure 3

Key Changes Made by Proposition 34

This measure would enact new contribution and voluntary spending limits for candidates for state elective office. Two examples are shown below of how these provisions differ from the Political Reform Act, which is the current practice in regular elections, and Proposition 208, which has not been implemented because of a pending lawsuit.

Election Contest	Political Reform Act of 1974	Proposition 208	Proposition 34
Limits Per Election on Campaign Contributions by Individuals ^a			
Assembly and Senate	No limits	\$250	\$3,000
Statewide offices (except Governor)	No limits	\$500	\$5,000
Governor	No limits	\$500	\$20,000
Voluntary Campaign Spending Limits ^{b,c}			
Assembly			
Primary:	No limits	\$100,000	\$400,000
General:	No limits	\$200,000	\$700,000
Senate			
Primary:	No limits	\$200,000	\$600,000
General:	No limits	\$400,000	\$900,000
Board of Equalization			
Primary:	No limits	\$200,000	\$1 million
General:	No limits	\$400,000	\$1.5 million
Statewide Office (except Governor)			
Primary:	No limits	\$1 million	\$4 million
General:	No limits	\$2 million	\$6 million
Governor			
Primary:	No limits	\$4 million	\$6 million
General:	No limits	\$8 million	\$10 million

^a Under Proposition 208, limits double if candidate agrees to voluntary campaign spending limit.
^b Under Proposition 208, limits can as much as triple under certain circumstances defined in the measure.
^c Under Proposition 34, political party expenditures on behalf of a candidate do not count against voluntary spending limits.

Campaign Disclosure Rules

Paid Endorsements. Under this measure, if a person appearing in a campaign advertisement for or against a state or local ballot proposition was paid, or will be paid \$5,000 or more for the appearance, that fact would have to be disclosed in the advertisement.

On-Line Reporting. This measure requires that a candidate for state elective office or a committee supporting a state ballot measure make on-line or electronic reports to the Secretary of State within 24 hours of receiving a contribution of \$1,000 or more during the 90 days before an election. Certain independently operating committees would similarly have to make on-line or electronic reports of expenditures of \$1,000 or more related to a candidate for state elective office.

Advertising Payments. Under current law, if a person spends funds to directly advocate the election or defeat of a candidate for state office, such expenditures generally must be disclosed in a statement filed with the Secretary of State before the election. This measure would generally require an on-line or electronic report before the election when someone is purchasing campaign advertisements involving payments of \$50,000 or more that clearly identify a candidate for state office but do not expressly advocate the candidate's election or defeat.

"Slate Mailers." Slate mailers—mailed campaign advertisements containing lists of recommendations for voters—would have to include a written notice if they indicate an association with a political party but their recommended position on a ballot proposition or candidate differs from that political party's official position.

Other Provisions

Fund-Raising by Appointees. This measure repeals a provision in Proposition 208 that would prohibit members of certain appointed public boards or commissions from contributing to or soliciting campaign contributions on behalf of the person who appointed them to that office.

Surplus Campaign Funds. This measure limits the use of surplus campaign funds to specified purposes, including repayment of campaign debts or political contributors, charitable donations, contributions to

political parties, home security systems for candidates or officeholders subjected to threats, and payment of legal bills related to seeking or holding office. In so doing, the measure repeals a provision of Proposition 208 that generally requires, within 90 days after an election, the distribution of any surplus funds to political parties, political contributors, or to the state.

Penalties and Enforcement. This measure increases penalties for violations of campaign law to the same levels as Proposition 208. For example, the FPPC could impose a fine of up to \$5,000 per violation, instead of the prior penalty of \$2,000. Additionally, the measure repeals a provision of Proposition 208 allowing the FPPC to initiate criminal prosecution of alleged violations of campaign laws, and narrows the cases in which an alleged campaign law violation is subject to penalties.

FISCAL EFFECT

This measure would result in additional costs to the state primarily related to the publication of candidate statements in the state ballot pamphlet and the implementation and enforcement of various provisions of the measure. The additional state costs would be offset to an unknown extent by payments and fines from candidates and political committees. We estimate that the net costs to the state could potentially be as much as several million dollars annually. In addition, local governments would incur unknown, but probably not significant, costs to implement the voluntary spending limit provisions of the measure.

34 CAMPAIGN CONTRIBUTIONS AND SPENDING. LIMITS. DISCLOSURE.

Legislative Initiative Amendment.

Argument in Favor of Proposition 34

Reform California political campaigns. Vote YES on Proposition 34.

- Clamp a lid on campaign contributions
- Limit campaign spending
- Require faster disclosure of contributions via the Internet
- Does not allow taxpayer dollars to be used in campaigns
- Stop political "sneak attacks"
- Close loopholes for wealthy candidates
- Increase fines for law violators

Currently there are no limits on what politicians can collect and spend to get elected to state office. California is still the wild west when it comes to campaign fundraising. Six-figure campaign contributions are routine. Proposition 34 finally sets enforceable limits and puts voters back in charge of California's political process.

• PROPOSITION 34 LIMITS POLITICAL CONTRIBUTIONS

Proposition 34 brings strict contribution limits to every state office. These limits are tough enough to rein in special interests and reasonable enough to be upheld by the courts. Proposition 34 bans lobbyists from making ANY contribution to any elected state officer they lobby.

• PROPOSITION 34 CREATES CAMPAIGN SPENDING LIMITS

Campaign spending is out of control. Proposition 34 creates legally allowable limits to keep spending under control and includes a system so voters know who abides by the limits and who doesn't.

• PROPOSITION 34 USES THE INTERNET TO SPEED UP DISCLOSURE

Proposition 34 requires candidates and initiatives to disclose contributions of \$1,000 or more on the Internet within 24 hours for a full three months before the end of the campaign.

• PROPOSITION 34 DOES NOT ALLOW TAXPAYER FUNDED CAMPAIGNS

Proposition 34 does not impose taxpayer dollars to be used to finance political campaigns in California. Our tax money is better spent on schools, roads and public safety.

• PROPOSITION 34 MORE THAN DOUBLES FINES TO \$5,000 PER VIOLATION

• PROPOSITION 34 CLOSES LOOPHOLES FOR WEALTHY CANDIDATES

Wealthy candidates can loan their campaigns more than \$100,000, then have special interests repay their loans. Proposition 34 closes this loophole.

• PROPOSITION 34 STOPS POLITICAL SNEAK ATTACKS

In no-limits California, candidates flush with cash can swoop into other races and spend hundreds of thousands of dollars at the last minute to elect their friends. Proposition 34 stops these political sneak attacks.

• PROPOSITION 34 REFORMS WON'T BE THROWN OUT

Three times in the past twelve years, voters have attempted to enact limits only to have the courts strike them down.

Proposition 34 has been carefully written to fully comply with all court rulings and will set reasonable limits that can be enforced.

VOTE YES ON PROPOSITION 34 if you're tired of special interests controlling our government.

VOTE YES ON PROPOSITION 34 if you want real campaign reform that can and will be enforced.

VOTE YES ON PROPOSITION 34 if you don't want taxpayers to pay for political campaigns.

Proposition 34 is tough, fair and enforceable. It deserves your support.

DAN STANFORD, *Former Chair*

California Fair Political Practices Commission

EILEEN PADBERG, *Member*

Bipartisan Commission on the Political Reform Act

HOWARD L. OWENS, *Director of Region IX*

National Council of Senior Citizens

Rebuttal to Argument in Favor of Proposition 34

Proponents of Proposition 34 just don't get it! Ridding state government of special influence is a worthy goal. **BUT PROPOSITION 34 OFFERS A CURE THAT IS WORSE THAN THE DISEASE.**

It is very expensive to run for political office in California. Candidates need campaign contributions to inform voters where they stand on the issues. If candidates are unable to raise the money needed to finance a campaign, how will voters be able to make informed choices as to who is the best person to represent them?

Free speech is a cherished right in our nation. **WHY SHOULD WE RESTRICT A POLITICAL CANDIDATE'S FREE SPEECH IN THE GUISE OF POLITICAL REFORM?**

Proponents of campaign finance reform have the false illusion that Proposition 34 contribution limits will keep special interest politics out of the State Legislature.

They're wrong.

PROPOSITION 34 WON'T WORK. Here's why:

By clamping unworkable limits on normal campaign contributions, candidates will be forced to spend *more time*—not less—asking wealthy political donors for money.

Incumbent politicians will be begging for money when they should be tending to the public's business. Challengers will be forced to seek campaign funds from any and all sources that want political favors from Sacramento.

PROPOSITION 34 IS A RECIPE FOR A GOVERNMENT MORE BEHOLDEN TO SPECIAL INTERESTS.

The best way to reduce special interest influence is to fully disclose all campaign contributions and let the voters decide which candidate deserves our trust.

Vote No on Proposition 34.

BRETT GRANLUND, *Assemblyman*

65th Assembly District

BILL MORROW, *Senator*

38th District

Argument Against Proposition 34

True campaign finance reform is to require detailed reporting of all contributions and let the chips fall where they may.

Proposition 34 is an unnecessary scheme to limit the amount of money that can be spent by candidates for State office. CANDIDATES SPEND CAMPAIGN MONEY TO SEND US INFORMATION ABOUT THEIR CAMPAIGN AND THEIR POSITIONS ON ISSUES. THIS ENABLES US TO MAKE CHOICES. No money, no information.

The supporters of Proposition 34 say we should limit campaign money because contributors could unduly influence candidates or officeholders. Do you want to be dependent upon biased newspapers or news organizations to tell us what a candidate thinks rather than letting the candidate himself or herself tell you?

If a person feels so strongly about the qualities of a candidate that he or she wants to give money to help get the candidate elected, so what? If a person believes the positions of an incumbent politician are wrong, doesn't he or she have the right to financially help the opponent? ALL CAMPAIGN CONTRIBUTIONS ARE NOW REPORTED. IF WE DON'T LIKE THE PEOPLE WHO GIVE MONEY TO A POLITICIAN, WE CAN VOTE AGAINST HIM OR HER!

Without a political campaign, we'd never know which of the candidates are worthy of our support. Proposition 34 would

impose severe limits on campaign money. Limits so severe that most politicians would be unable to communicate effectively. Limits so severe that we might wind up electing the politician we'd heard something about—the most famous name. DO WE WANT TO LIMIT OUR CHOICE OF CANDIDATES TO A GROUP OF RICH MOVIE STARS, FAMOUS ATHLETES OR CELEBRITY TALK SHOW HOSTS?

Political campaigns cost money: money for mail advertisements, money for television and radio advertisements. We may not believe what they tell us, but it doesn't cost US anything.

Our Founding Fathers wrote a guarantee of "free speech" into the Constitution. But speech isn't free if you want a lot of people to hear it. When you outlaw campaign money, you are really outlawing effective speech in politics—and that's wrong!
VOTE NO ON PROPOSITION 34!

BRETT GRANLUND, *Assemblyman*
65th Assembly District
BILL MORROW, *Senator*
38th District

Rebuttal to Argument Against Proposition 34

Opponents of Proposition 34 argue that we don't need reform of our campaign system. They would have us believe that unlimited campaign contributions by special interests do not influence politicians. Are they serious?

Former Insurance Commissioner Chuck Quackenbush accepted five and six figure campaign contributions from insurance companies which led to one of the biggest corruption scandals in California history. These huge contributions would not have been allowed under Proposition 34.

PROPOSITION 34 WILL PUT THE BRAKES ON SPECIAL INTEREST DOLLARS.

- Special interests will be limited in what they can contribute to candidates.

- Lobbyists will be forbidden from making contributions.
- Campaign spending will be limited.
- Faster public disclosure of contributions will be required.

PROPOSITION 34 IS CONSTITUTIONAL.

On three recent occasions, voters have approved ballot measures imposing strict contribution limits. Each time, the courts have struck them down.

Unlike other reform measures, Proposition 34 was drafted by experts to fully comply with all court rulings. It will allow candidates to spend enough to campaign effectively without allowing special interests to buy elections.

With no current contribution or spending limits in place, politicians routinely spend \$1 million for a seat in the State Legislature. Where do they get this money? The vast majority of their campaign dollars come from powerful special interests seeking favors in Sacramento.

Officials should work for the people who elect them, not for special interests.

REFORM CALIFORNIA CAMPAIGNS. FIGHT CORRUPTION.
VOTE YES ON 34.

LEE BACA, *Sheriff*
Los Angeles County
DAN STANFORD, *Former Chair*
California Fair Political Practices Commission
GEORGE ZENOVICH, *Associate Justice*
Court of Appeal, Fifth District (ret.)

ATTACHMENT "D"

PROPOSITION 208 vs. PROPOSITION 34

PROVISION	PROP 34 SECTION	PROP 208	PROP 34
LIMITS ON CONTRIBUTIONS			
LIMITS ON CONTRIBUTIONS TO LOCAL CANDIDATES	Sec. 22	\$100 per election (\$250 if candidate agrees to any local spending limit); double from small contributor committees.	Repeals Prop 208 limit. Sets no limits.
LIMITS ON CONTRIBUTIONS TO LEGISLATIVE CANDIDATES	85301(a) 85302(a)	\$250 per election (\$500 if candidate agrees to spending limit); double from small contributor committees.	Repeals Prop 208 limit. Provides for \$3,000 per election; \$8,000 from small contributor committee.
LIMITS ON CONTRIBUTIONS TO STATEWIDE CANDIDATES	85301(b) 85302(b)	\$500 per election (\$1,000 if candidate agrees to spending limit); double from small contributor committees.	Repeals Prop 208 limit. Provides for \$5,000 per election; \$10,000 from small contributor committee.
LIMITS ON CONTRIBUTIONS TO GOVERNOR CANDIDATES	85301(c)	\$500 per election (\$1,000 if candidate agrees to spending limit); double from small contributor committees.	Repeals Prop 208 limit. Provides for \$20,000 per election. No separate provision for small contributor committees.
LIMITS ON CONTRIBUTIONS TO POLITICAL PARTIES	85303(b)	\$5,000 per calendar year	Repeals Prop 208 limit. \$25,000 per calendar year for contributions to candidates. Unlimited for all other uses including independent expenditures, partisan voter registration, partisan get-out-the-vote activities and slate
LIMITS ON CONTRIBUTIONS TO PACS AND COMMITTEES THAT MAKE INDEPENDENT EXPENDITERS	85303(a)	\$500 per calendar year with respect to PACs. \$250 per election to committees that make independent expenditures of \$1,000 or more.	Repeals Prop 208 limit. Provides for \$5,000 per election for making contributions to candidates for state office. No other limits at all.
LIMITS ON CONTRIBUTIONS FROM POLITICAL PARTIES TO CANDIDATES	Sec. 31	25% of voluntary spending limits. Limits lifted under certain circumstances if "big money" against a candidate who has agreed to limit spending.	Repeals Prop 208 limit. Provides for no limits on contributions from political parties to candidates.
AGGREGATE LIMITS ON CONTRIBUTIONS	Sec. 45	\$25,000 per two year cycle to all state candidates and political parties.	Repeals Prop 208 limit. Provides for no aggregate contribution limits.

Note: Prop 208 limits to be adjusted upward for inflation since January 1, 1997.
Prop 34 limits will be adjusted for inflation.

PROVISION	PROP 34 SECTION	PROP 208	PROP 34
AGGREGATE LIMIT ON TOTAL A M O U N T CANDIDATES CAN RECEIVE FROM CORPORATIONS, UNIONS AND MOST PACS	Sec. 44	Governor \$1 Million-Primary \$2 Million-General Other Statewide \$250,000-Pri \$500,000-Gen Assembly \$25,000-Pri \$50,000-Gen Senate/BOE \$50,000-Pri \$100,000-Gen	Repeals Prop 208 limits. Provides for no aggregate limits.
LIMITS ON LOANS TO ONE'S OWN CAMPAIGN	85307	\$20,000 outstanding except \$50,000 with respect to candidates for Governor.	Repeals Prop 208 limits. Provides for limits of \$100,000 for state candidates. A candidate cannot charge interest.
LIMITS ON FUNDRAISING PERIOD	Sec. 34 85316 85318	Fundraising can begin 12 months prior to primary for statewide candidates; 6 months for legislative/BOE candidates. Contributions received after election restricted.	Repeals Prop 208 limits. Provides for no "black out" period for fundraising. Restricts contributions after an election to debt retirement. Permits General Election candidates to receive contributions years before the General Election.
TRANSFERS FROM ONE CANDIDATE TO A N O T H E R CANDIDATE	85305	Transfers are banned to prevent circumvention of contribution limits.	Repeals Prop 208 limits. Permits transfers up to contribution limit.
CONTRIBUTIONS FROM LOBBYISTS	Sec. 65 85702	Candidate cannot solicit or accept a campaign contribution from, through or arranged by a lobbyist.	Repeals Prop 208 provision. Prohibits only contributions made by a lobbyist. Lobbyist could still be intermediary or arrange for contribution.
CONTRIBUTIONS FROM CERTAIN APPOINTEES TO BOARDS AND COMMISSIONS	Sec. 65	Prohibits appointees to boards or commissions from soliciting contributions to or contributing to those appointing them.	Repeals Prop 208 prohibition.
BUNDLING	Sec. 65	A contribution which passes through an intermediary is deemed to be a contribution from both the source and the intermediary for purposes of the limits.	Repeals Prop 208 anti-bundling provision.
INTERNAL COMMUNICATIONS	Sec. 50 85312	Costs of internal communications to members, employees, et al. are not considered to be contributions except for political parties.	Repeals Prop 208 provision. Provides that all internal communications with members, et al., including communications from a political party to its members, are exempt from contribution limits.
AFFILIATED ENTITIES	Sec. 48 85311	Payments made by an entity established, financed, maintained or controlled by another entity are deemed to have been made by a single entity for purposes of the limits.	Repeals Prop 208 provision. Definition changed to ensure that local chapters of most state and national organizations are deemed to be separate entities for purposes of the contribution limits.

PROVISION	PROP 34 SECTION	PROP 208	PROP 34
VOLUNTARY SPENDING LIMITS			
ASSEMBLY CANDIDATES	Sec. 59 85400(a)(1)	\$100,000 Primary \$200,000 General	Repeals Prop 208 limits. Provides for \$400,000 Primary and \$700,000 General
SENATE CANDIDATES	Sec. 59 85400(a)(2)	\$200,000 Primary \$400,000 General	Repeals Prop 208 limits. Provides for \$600,000 Primary and \$900,000 General.
STATEWIDE	Sec. 59 85400(a)(3)	\$1,000,000 Primary \$2,000,000 General	Repeals Prop 208 limits. Provides for \$4 million Primary and \$6 million General.
GOVERNOR CANDIDATES	Sec. 59 85400(a)(4)	\$4,000,000 Primary \$8,000,000 General	Repeals Prop 208 limits. Provides for \$6 million Primary and \$10 million General.
INCENTIVES TO LIMIT SPENDING	85600 85601 85402	Doubled contribution limits. Designation in ballot materials. Free candidate statement. Limits increase if accepting candidate faces "big spending."	Designation in ballot pamphlet. Can purchase candidate statement. (May eliminate practice of including free candidate statements in state pamphlet.) Limits lifted entirely if accepting candidate faces self-funded candidate who contributes
ADDITIONAL RESTRICTIONS			
DEPOSIT OF CONTRIBUTIONS	Sec. 65 85700	Contributions of \$100 or more cannot be deposited unless occupation/employer information	Repeals Prop 208 restriction. Requires return of contribution if information is not obtained within 60 days of receipt of contribution.
CAMPAIGN WARCHESTS	Sec. 52 85317	Surplus funds must be distributed within 90 days after	Permits unlimited carryover of campaign warchests if running for the same office.
ENFORCEMENT			
FPPC CRIMINAL JURISDICTION	Sec. 72	The FPPC has concurrent jurisdiction for enforcing the criminal provisions of the	Repeals Prop 208 provision.
AIDING AND ABETTING VIOLATIONS OF THE POLITICAL	Sec. 74, etc.	Those who aid and abet violations of the Political Reform Act are subject to the various enforcement remedies.	Repeals Prop 208 provisions regarding aiding and abetting.

ATTACHMENT "E"



Action Guide

November 7, 2000

LEAGUE OF WOMEN VOTERS OF CALIFORNIA

OPPOSES

Proposition 34 — Campaign Contributions and Spending.

[Description](#) - [Background](#) - [Important Points](#) - [Supporters/Opponents](#) - [Resources](#) - [Letter to Editor](#) - [Flyer](#)

DESCRIPTION

Proposition 34 is a phony campaign reform measure put on the ballot by the legislature in order to allow for essentially unlimited campaign contributions to benefit candidates. It repeals the campaign contribution and voluntary spending limits for state and local candidates of Proposition 208, passed by the voters in 1996. It replaces them with higher dollar limits for state offices and includes no limits at all for local offices. The measure also raises or eliminates contribution limits to political parties or Political Action Committees (PACs) and raises the voluntary spending limits, as shown in the following charts.

CONTRIBUTION LIMITS

CONTRIBUTIONS TO:	PROPOSITION 34	PROPOSITION 208
Local candidates	Unlimited	\$100 per election (\$250 if candidate agrees to limit spending)
Legislative candidates	\$3,000 per election	\$250 per election (\$500 if candidate agrees to limit spending)
Statewide candidates except Governor	\$5,000 per election	\$500 per election (\$1,000 if candidate agrees to limit spending)
Candidates for Governor	\$20,000 per election	\$500 per election (\$1,000 if candidate agrees to limit spending)

Contributions to parties for candidates	\$25,000 per year for making contributions to candidates; unlimited for all other uses, including independent expenditures, partisan voter registration, partisan get-out-the-vote activities and slate mailings	\$5,000 per year
Contribution from parties to candidates	Unlimited	25% of voluntary spending limits
Contributions to PACs	\$5,000 per year for making contributions to candidates; unlimited for all other uses	\$500 per year
Limit on total amount that can be contributed to all candidates and parties	No limit	\$25,000 per two-year cycle to state candidates and parties

VOLUNTARY SPENDING LIMITS

SUBJECT	PROPOSITION 34	PROPOSITION 208
State Assembly	\$400,000 primary election	\$100,000 primary election
	\$700,000 general election	\$200,000 general election
State Senate	\$600,000 primary election	\$200,000 primary election
	\$900,000 general election	\$400,000 general election
Statewide candidates other than Governor	\$4 million primary election	\$1 million primary election
	\$6 million general election	\$2 million general election
Governor	\$6 million primary election	\$4 million primary election
	\$10 million general election	\$8 million general election

Under Proposition 34, amounts spent directly on behalf of a candidate by a political party are not counted against the voluntary spending limit, and additional sums over the \$25,000 limit on direct spending could be contributed to support other election-related party activities (soft money). The measure limits contributions to small contributor committees, but does not restrict the number of such committees that could be established. It repeals Proposition 208's aggregate limits on the total amount a candidate can

receive from non-individuals (corporations, unions, and most PACs).

Proposition 34's limits would apply to legislative candidates in the 2002 election, but would not go into effect for candidates for statewide office until 2004.

Proposition 34 would repeal Proposition 208's bans on: non-election year fundraising; appointees to boards and commissions making contributions to or soliciting contributions for those appointing them; carry-over of funds (campaign war chests) from one campaign to another campaign for the same office. It repeals Proposition 208's ban on transfers from one candidate or officeholder to another candidate but limits those transfers. Such funds, however, may be contributed to parties without limits. Proposition 34 bans direct contributions by lobbyists, but repeals the Proposition 208 ban on arranging of contributions by lobbyists.

Proposition 34 includes some expanded on-line campaign disclosure requirements.

Since 1994, the Secretary of State has included the statements of all statewide candidates in the California ballot pamphlet at no cost. Proposition 208 allows statements at no cost for candidates who accept spending limits and allows others to pay for their statements. Under Proposition 34, candidates accepting spending limits could pay to have their statements printed, and others would not be allowed. Proposition 208 designates those candidates who accept spending limits on the ballot and in the ballot pamphlet and county sample ballot; Proposition 34 designates them only in the ballot pamphlet.

BACKGROUND

The Political Reform Act (PRA), approved by the voters in 1974, established campaign finance disclosure requirements. In 1996, the League of Women Voters helped write, qualify for the ballot, and pass Proposition 208, a tough but reasonable initiative which amended the PRA to establish limits on campaign contributions, voluntary limits on spending and other provisions regulating campaigns. After Proposition 208 passed with a 61.3% vote, it was in effect for more than a year. However, it was challenged in court by the major political parties and others, and its provisions are blocked from enforcement at present. That lawsuit has been heard, but will not be decided until after the November election.

Last January, the U.S. Supreme Court, in a case involving a Missouri law, upheld a measure with contribution limits similar to those in Proposition 208 (*Nixon v. Shrink Missouri Government PAC*). Many legal experts believe that, based on that decision, Proposition 208 will eventually be upheld by the courts.

However, if Proposition 34 is passed by the voters, the provisions of Proposition 208 that it repeals will never be implemented.

Proposition 34 was placed on the ballot in an attempt to prevent reinstatement of Proposition 208. Its text

was released just hours before it was voted on, with no public testimony or input, by a conference committee that sent it to both houses. After hurried floor votes in the two houses, it was sent to the governor and signed on the last possible day to place a measure on the November ballot. The ballot title and summary do not indicate that Proposition 34 repeals a voter-approved measure, and the ballot arguments in opposition were written by legislators hand-picked by the legislative leaders who sponsored the bill, rather than by the sponsors of Proposition 208.

IMPORTANT POINTS

- This is not real reform, but a measure crafted by politicians in Sacramento to assure that they can continue to operate with essentially the same flow of campaign money they now have.
- Many legal experts believe that Proposition 208, the reasonable campaign finance reform the voters enacted in 1996, is likely to be upheld in the appellate courts soon, and Proposition 34 is a desperate attempt by the political establishment to keep it from going into effect. Proposition 34 repeals nearly all of the provisions of Proposition 208.
- Proposition 34 was passed by the Legislature and signed by the Governor in a process even the Governor admitted was "devised largely in secret, without input from the public or knowledgeable sources," and the politicians have manipulated the system to keep the real opponents of the measure (the League, Common Cause and AARP) from having their opposition represented in the state's voter pamphlet.
- Proposition 34 has no limits on local contributions, and its contribution limits for state office are among the highest in the country.
- Proposition 34 has no limits on contributions of "soft money" to PACs or political parties, and no limits on contributions to committees that make independent expenditures.
- Proposition 34 has no limits on contributions from political parties to candidates, and virtually no limits on contributions to political parties. Contributors can simply avoid the contribution limits in the measure by routing funds to candidates through the parties, and there is no means of tracking the contributions from donor to intended recipient.
- Proposition 34 has no limits on contributions to political parties for mailings to party members and their families supporting or opposing a candidate, even if the mailing is coordinated with a candidate.
- Proposition 34 would not even go into effect for statewide offices, including Governor and Insurance Commissioner, until after the 2002 election.
- Proposition 34 is a step backward. It will let politicians claim they have "reformed" the system,

but in fact it makes a bad situation worse by turning the political parties into money laundering machines that make it impossible to "follow the money." It will only cause citizens to become more cynical about the political process.

SUPPORTERS

Signing the ballot argument for:

Dan Stanford, Former Chair
Fair Political Practices Commission

Eileen Padberg, Member
Bipartisan Commission on the Political Reform
Act

Howard L. Owens, Director of Region IX
National Council of Senior Citizens

OPPONENTS

Signing the ballot argument against:

Brett Granlund
Assemblymember, 65th Assembly District

Bill Morrow
Senator, 38th Senate District

Other organizations and individuals opposing the measure include American Association of Retired Persons -California (AARP); Americans for Democratic Action; California Common Cause; California Public Interest Research Group (CALPIRG); former Secretary of State March Fong Eu; Green Party of Sacramento County; League of Women Voters of California; former Acting Secretary of State Tony Miller; and People's Advocate.

RESOURCES FOR MORE INFORMATION

Anne Henderson, LWVC Legislative Director, annehenderson@worldnet.att.net
Trudy Schafer, LWVC Program Director/Advocate, tschafer@jps.net
Eric Wooten, LWVC Advocacy Aide, eric_lwvc@altavista.com
Doris Fine, LWVC Government Director, doris_fine@hotmail.com
Paulene Goddard, LWVC Program Director for Campaign Financing, using2468@aol.com

Californians Against Phony "Reform"--NO on 34, a Committee Sponsored by The League of Women Voters of California, American Association of Retired Persons-California (AARP), and Common Cause, 926 J Street, Suite 910, Sacramento 95814, 916-443-1792, NoPhonyReform@VoteNOon34.org, www.voteNoOn34.org

SAMPLE LETTER TO THE EDITOR

Editor:

The need to control the influence of big campaign donors on the political process is clear. The politicians in Sacramento would have you believe that Proposition 34, the phony "campaign reform" measure they have put on the ballot, will do that. In fact, Proposition 34 will make a bad situation even worse.

It was written by politicians, for politicians. It allows virtually unlimited contributions to be sent to candidates through the political parties, transforming them into money laundering machines that will make it impossible to connect the big interests trying to buy influence with the candidates who receive the money.

Proposition 34 is full of loopholes and is designed to fool the voters into thinking they are getting reform, when they are only getting the same old system in a new disguise. That is why I will vote NO on Proposition 34.

Return to [Action Guide Summary, November 2000](#). On what other propositions is the League recommending a vote?

Go to LWVCEF's [Nonpartisan Proposition Analyses](#).

Go find information about candidates and measures on your ballot at [Smart Voter](#).

Go to [LWVC Home Page](#).

The League of Women Voters is always nonpartisan: It does not support or oppose candidates or political parties. However, we are political because we support and oppose legislation, lobby legislators and take stands on ballot measures after study.

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ATTACHMENT "F"

THE TOP TEN LOOPHOLES IN PROPOSITION 34 (WITH APOLOGIES TO DAVID LETTERMAN)

10. NO LIMITS ON CONTRIBUTIONS TO LOCAL CANDIDATES AND SKY-HIGH LIMITS ON CONTRIBUTIONS TO OTHER CANDIDATES!
9. NO LIMITS ON BUNDLING OF CONTRIBUTIONS FOR CANDIDATES!
8. NO LIMITS ON CONTRIBUTIONS TO COMMITTEES MAKING INDEPENDENT EXPENDITURES!
7. NO LIMITS ON THE NUMBER OF CANDIDATES TO WHOM CONTRIBUTIONS CAN BE MADE FOR TRANSFER TO OTHER CANDIDATES!
6. NO LIMITS ON LOBBYISTS ARRANGING CONTRIBUTIONS FOR THOSE THEY ARE LOBBYING!
5. NO LIMITS ON THE NUMBER OF LOCAL CHAPTERS OF INTERNATIONAL, NATIONAL OR STATE ORGANIZATIONS THAT CAN EACH GIVE UP TO THE MAXIMUM CONTRIBUTIONS!
4. NO LIMITS ON SOFT MONEY CONTRIBUTIONS TO POLITICAL PARTIES OR PACS!
3. NO LIMITS ON COMMUNICATIONS BY POLITICAL PARTIES OR PACS TO THEIR MEMBERS AND THEIR FAMILIES SUPPORTING OR OPPOSING CANDIDATES!
2. NO LIMITS ON POLITICAL PARTY CONTRIBUTIONS TO A CANDIDATE, CONTRIBUTIONS TO COMMITTEES THAT MAKE CONTRIBUTIONS ONLY TO POLITICAL PARTIES, AND VIRTUALLY NO LIMITS ON CONTRIBUTIONS TO POLITICAL PARTIES!
1. NO LIMITS ON CONTRIBUTIONS TO STATEWIDE CANDIDATES SUCH AS GOVERNOR AND INSURANCE COMMISSIONER UNTIL AFTER THE 2002 ELECTION!

**PROPOSITION 34 HAS MORE HOLES IN IT THAN
SWISS CHEESE!**

CALFORNIANS AGAINST PHONY "REFORM"-NO on 34

League of Women Voters of California, AARP and California Common Cause

926 J Street, Suite 910 Sacramento, California 95814 Telephone: 916-443-1792 Fax: 916-443-1897

www.VoteNOon34.org NoPhonyReform@Vc

I.D. #1223774 Tony Miller, Treasu

(7/00)

ATTACHMENT "F"

ATTACHMENT "G"

TEN FREQUENTLY ASKED QUESTIONS AND ANSWERS REGARDING PROPOSITION 34

1. **What is Proposition 34?** Proposition 34 was put on the November 2000 statewide ballot by politicians in the state legislature. It would allow for essentially unlimited campaign contributions to benefit candidates by repealing key provisions of Proposition 208, the citizen-sponsored political reform initiative approved by 61.3% of the voters in 1996. Proposition 34 would replace Proposition 208's contribution and spending limits with much higher limits. For example, the contribution limits for candidates for Governor are up to 40 times higher in Proposition 34 than in Proposition 208.
2. **But isn't Proposition 208 dead?** Hardly. After it had been in effect for over a year, a federal court suspended the enforcement of Proposition 208 until a full trial could be conducted. Before that trial could be held, the United States Supreme Court, in a case involving a law in another state, upheld a measure with contribution limits similar to those in Proposition 208. (See *Nixon vs. Shrink Missouri Government PAC*.) Many legal experts believe that, based on the recent Supreme Court decision, Proposition 208 will be reinstated after the trial on Proposition 208 is completed next year. Proposition 34 is intended to prevent Proposition 208 from being reinstated by the courts.
3. **Would Proposition 34 supersede Proposition 208 even if Proposition 208 is found by the courts to be valid?** Yes. That is what Proposition 34 is designed to do...to kill Proposition 208.
4. **Who is behind Proposition 34?** Proposition 34 was crafted and is backed by many of the politicians who opposed Proposition 208 and who are challenging Proposition 208 in court. The measure was approved by the Legislature only after a legislative committee consultant indicated in an analysis of Proposition 34 that he had "...polled all three appellate attorneys (Democrat and Republican) handling the Prop. 208 case, and they are unanimous in their opinion that Proposition 208 will eventually be put back in place by the courts." Having lost at the ballot box in 1996 and with the prospect of losing in court looming on the horizon, they are using Proposition 34 as a last-ditch effort to keep big money flowing to politicians and the major political parties.
5. **Who is opposing Proposition 34?** Proposition 34 has united the political reform community against it. The coalition against Proposition 34 is being led by the League of Women Voters of California, American Association of Retired Persons-California (AARP), California Common Cause, and California Public Interest Research Group (CALPIRG). Californians Against Phony "Reform"-NO on 34 has been formed to oppose Proposition 34.

(OVER)

ATTACHMENT "G"

6. **But isn't Proposition 34 better than nothing?** No. Even if Proposition 208 is not reinstated, Proposition 34 would make a bad situation even worse. First, Proposition 34 is chock full of loopholes designed to ensure that big money continues to flow unabated, but in less obvious ways, to politicians and the big political parties. It is like trying to stop a flood with chicken wire. Second, it transforms the major political parties into massive money laundering machines that will make it impossible to "follow the money" and determine who is trying to buy whom. Third, it will only foster further cynicism regarding involvement in the political process by ordinary citizens, since Proposition 34 will not deliver the "reform" promised. Fourth, it will prevent real reform from occurring at the state level---based on the argument that we should give Proposition 34 time to work. Fifth, it will allow the politicians to claim that they have "reformed" the system when they have actually made things worse.

7. **Isn't strengthening political parties a good thing?** Yes, up to a point, but Proposition 34 will do nothing to strengthen political parties. In fact, political parties are apt to be even weaker under Proposition 34 than they are today because they will be less independent to support policies that make sense for ordinary Californians. Instead, the political parties will be even more beholden to big money interests. What Proposition 34 will do is enhance the financial importance of the party chairs who will be "bag persons" for special interest money being funneled to politicians.

8. **Is it really true that Proposition 34 was drafted in secret?** Yes. Governor Gray Davis was correct when he said that Proposition 34 was "devised largely in secret, without input from the public or knowledgeable sources." In fact, the text of the measure was released in the dark of night just a few hours before it was voted on by the committee that sent it to both houses of the Legislature. No public testimony or input was permitted. It was rammed through the Legislature at the very last minute to avoid public scrutiny. And, as a final insult to the voters, the politicians have prevented the primary proponents of Proposition 34 from even being mentioned in the state ballot pamphlet. They don't want the voters to know why the League of Women Voters of California, AARP-California, California Common Cause, CALPIRG and other real political reformers oppose Proposition 34.

9. **When will Proposition 34 take effect if it is approved by the voters?** Proposition 34 was drafted to exempt statewide candidates from contribution and spending limits until after the election in 2002. Thus, under Proposition 34, candidates for Governor and Insurance Commissioner will have no restrictions on fundraising or spending until the 2006 election cycle. Proposition 34 will apply to candidates for other state office beginning in 2001. Proposition 34 repeals Proposition 208's local candidate contribution limits and provides for no limits on local candidate fundraising or spending.

10. **What can I do to help defeat Proposition 34?** First, tell your family, friends and co-workers about Proposition 34 and why it is not "reform." Second, write a "letter to the editor" of your local newspaper about the need to defeat Proposition 34. Third, contribute whatever amount you can afford to help get the word out that Proposition 34 is phony "reform." You can contribute online and find out additional ways to help by visiting www.VoteNOon34.org. Fourth, be sure to **VOTE NO** on 34.

9/19/00

ATTACHMENT "H"

ALTERNATIVE EMERGENCY REGULATION 18535

(TONY MILLER DRAFT OF 8/2/02)

18535. Restrictions on Contributions Between State Candidates.

(a) Except as provided for in Section 83 of Proposition 34 or subdivision (e), (f) or (g) of this regulation, under Government Code section 85305, a candidate for elective state office, as defined in Government Code section 82024, and any committee(s) controlled by that candidate may not make any contributions to any other candidate for elective state office in excess of the limits set forth in subdivisions (a), (b) and (c) of Government Code section 85301, depending on the recipient of the contribution(s). These limits shall be adjusted for inflation in January of every odd-numbered year, pursuant to Government Code section 83124 and implementing regulations, and are, in 2002, \$3,000, \$5,000 or \$20,000, per election, as specified in subdivisions (a), (b) and (c) of Government Code section 85301, depending on the recipient of the contribution(s).

(b) Pursuant to Government Code section 85305, the restrictions on contributions between one candidate for elective state office and another apply to the aggregate total of contributions made from the personal funds or assets of the candidate and contributions made by all committees controlled by that candidate, as defined in Government Code section 82016 and 2 Cal. Code Regs. section 18217, except for committees or contributions sub-

ATTACHMENT "H"

1 ject to the provisions of subdivision (e), (f), or (g) of this
2 regulation.

3 (c) The restrictions of Government Code section 85305 on
4 contributions made by one candidate for elective state office to
5 another apply to all contributions made from, and all contribu-
6 tions made to, any committees controlled by a candidate for
7 elective state office, except for committees or contributions
8 subject to the provisions of subdivision (e), (f), or (g) of
9 this regulation.

10 (d) The restrictions of Government Code section 85305 are
11 applicable to contributions made or received by legislative can-
12 didates and their controlled committees on and after January 1,
13 2001, except for committees or contributions subject to the pro-
14 visions of subdivision (e), (f) or (g) of this regulation.

15 (e) The restrictions of Government Code section 85305 shall
16 not be applicable with respect to any contribution made or re-
17 ceived pursuant to the provisions of 2 Cal. Code Regs. Section
18 18521.6(a).

19 (f) Pursuant to Section 83 of Proposition 34, the restric-
20 tions of Government Code section 85305 shall not become applica-
21 ble to contributions made by candidates for elective state of-
22 fice and their controlled committees to statewide elective can-
23 didates and their controlled committees, until November 6, 2002.

24 (g) Pursuant to Section 83 of Proposition 34, the restric-
25 tions of Government Code section 85305 shall not become applica-

1 ble to contributions received by candidates for statewide elec-
2 tive office and their controlled committees until November 6,
3 2002.

4 [statement of emergency as proposed]
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